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Smart appeal hits dead end

Supreme Court refuses to hear case

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Derry News/File photo

Pam Smart

...appeal denied

With the US Supreme Court's decision Tuesday not to hear the appeal of Pamela Smart's murder conviction, it would appear that Smart has run out of wildcards to overturn her life-without-parole sentence.

However, J. Albert Johnson, Smart's attorney during the appeal process, may still have an ace up his sleeve. A statement issued by Johnson's office Tuesday indicated he will pursue the case in federal courts.

Smart, 26, was convicted in 1991 of masterminding the murder of her husband, Gregory, in

their Derry condominium in May 1990. The Smart case hinged on taped conversations with a teen-aged confidante and testimony from William Flynn, Smart's teen lover and trigger-man in the murder. It stirred international attention, books and a made-for-TV movie.

Smart's appeal is based on Superior Court Judge Douglas Gray's decisions not to delay the trial, move it to another court, or

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Court denies Smart appeal

■ **SMART**

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to sequester the jury.

After the appeal was rejected by the state Supreme Court in February, Johnson filed an appeal to the US Supreme Court, which refused to hear the case Tuesday.

Later on Tuesday, the law offices of Johnson, Mee & May issued a statement on Johnson's behalf. The three-paragraph statement told of Johnson's disappointment that the Supreme Court had declined to hear the Smart appeal, but indicated that Smart's fight may not be over.

"Notwithstanding the court's action today, other avenues are open for her eventual vindication," the statement read. "In order to rectify her unjust conviction, a writ of habeas corpus may be pursued in the federal courts.

This legal procedure is often used to reverse an erroneous state court decision."

The writ would only be legitimate if Smart can convince those on the federal district court level that her case involves federal constitutional issues that had not been considered in her trial.

In legal circles, the Supreme Court decision was not unexpected, since the cases the court hears all involve some important legal question that must be resolved, not criminal cases in which the defendant has run out of all other options.

Smart's chance at a new trial at the state level ended this year, when the state Supreme Court rejected her request for a new trial. The justices were not convinced of Johnson's argument at the September 1992 hearing that Smart had been denied a fair trial.